

Decision No. 74835**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CALIFORNIA WATER SERVICE COMPANY,
 a corporation,
 for an order authorizing it to increase
 rates charged for water service in the
 Bakersfield district in order to offset
 (a) the increase in federal income taxes
 resulting from the 1.0% surcharge imposed
 by the Revenue and Expenditure Control
 Act of 1968 and (b) the increase in
 California franchise taxes resulting
 from the 1-1/2% increase in the tax rate
 imposed by the 1967 amendment of the
 Bank and Corporation Tax Law.

Application No. 50403
 (Filed July 18, 1968)

And related proceedings involving other
 districts:

Bear Gulch district
 Broadmoor district
 Chico district
 East Los Angeles district
 Hermosa-Redondo district
 Marysville district
 Oroville district
 Salinas district
 Visalia district

Application No. 50404
 Application No. 50405
 Application No. 50406
 Application No. 50407
 Application No. 50408
 Application No. 50409
 Application No. 50410
 Application No. 50411
 Application No. 50412
 (Filed July 18, 1968)

O P I N I O N

Applicant California Water Service Company seeks authority to increase rates for water service in ten of its districts to offset the effect of increases in income tax rates since the last rate proceedings in those districts.

Service Areas and Rates

Applicant owns and operates water systems in 21 districts in California. The systems covered by these ten applications have each had water rates revised fairly recently, after comprehensive

reviews of the utility's operations in those districts based upon evidence presented at public hearings. The effective dates of the present rates, together with the surcharge percentages now proposed, are set forth in Table I:

TABLE I
PRESENT SCHEDULES AND PROPOSED SURCHARGES

<u>District</u>	<u>Tariff Schedule No.</u>	<u>Effective Date</u>	<u>Surcharge</u>
Bakersfield	BK-1, BK-2R	6-19-67	3.50%
	CR-1, CR-2R	3-1-66*	3.50
Bear Gulch	BG-1	5-10-68	2.24
Broadmoor	BD-1	5-10-68	2.33
Chico	CH-1, CH-2	6-19-67	2.87
East Los Angeles	EL-1	7-19-68	2.85
Hermosa-Redondo	HR-1	3-1-68	2.00
Marysville	MR-1, MR-2R#	7-1-67	3.16
Oroville	OR-1, OR-2R##, OR-3M	8-1-67	3.28
Salinas	SA-1	1-1-68	3.12
	SA-1LC	12-9-67*	3.12
Visalia	VS-1, VS-2R	1-1-68	2.52

*Rates of predecessor continued.

#Minor addition to special conditions, 8-16-67.

##Minor addition to special conditions, 9-20-67.

Subsequent to the establishment of the present rates in the ten districts involved in these applications, a ten percent surcharge to federal income taxes was imposed by the Revenue and Expenditure Control Act of 1968. The surcharge is retroactive for the full year 1968 and, unless extended, expires June 30, 1969.

Subsequent to the establishment of the present rates in the Bakersfield, Chico, Marysville and Oroville districts, the California franchise tax rate has increased by 1-1/2 percent as a result of the 1967 amendment of the Bank and Corporation Tax Law. The new rate became effective for tax years beginning with 1967 and, unlike the federal surcharge, continues in effect until superseded by further legislation.

The applications show that, depending upon the district ratio of taxes to revenue, a 2.00 percent to 3.50 percent surcharge on bills computed under the rate schedules listed in Table I will be required to offset the effect of the federal income tax surcharge and, for four districts, the state corporation franchise tax rate increase, and produce the same net revenues found reasonable by the Commission in establishing the present rates. Applicant's proposed surcharges on its bills will offset only the future effect of the tax increases and are not designed to recoup any of the increased taxes on net revenue produced prior to the effective date of the increased water rates authorized in this proceeding.

Discussion

The courts have long held that income taxes must be recognized as operating expenses in setting rates for a regulated utility. This Commission historically has determined the amount of such income tax allowances based upon the tax rates and credits actually to be in effect. Thus, when the federal corporate tax rate was lowered to 48 percent from the former 52 percent, the lower tax rate was thereafter used in determining utilities' tax allowances for rate-making purposes. Similarly, when taxes are reduced because of the "investment tax credit", this saving is passed on to the customers in setting the utility's rates.

We now face the opposite situation, where the utility's tax liability will be greater than allowed for when present water rates were established. When those water rates have been determined as recently as in the districts involved herein, it is apparent that the utility will not achieve the rate of return found reasonable without additional rate relief.

Findings and Conclusions

The Commission finds that:

1. Subsequent to the recent establishment of water rates for the ten districts covered by these applications, there have been increases in income tax rates.

2. Applicant is in need of additional revenues to offset the effect of the increased tax rates.

3. The surcharges requested by applicant are designed to provide only sufficient additional revenue to offset the future effect of income tax rate increases which had not been enacted at the time the present water rates were established in the ten districts involved.

4. The increases in rates and charges authorized herein are justified; the rates and charges authorized herein are reasonable; and the present rates and charges, insofar as they differ from those prescribed herein, are for the future unjust and unreasonable.

The Commission concludes that the applications should be granted and that a public hearing is not necessary.

Inasmuch as the increased income tax rates have been in effect for some time, the effective date of the order herein will be the date hereof.

O R D E R

IT IS ORDERED that:

1. After the effective date of this order, applicant California Water Service Company is authorized to file for the various districts covered by these applications revised rate

schedules which differ from the present rate schedules in that they include the following special condition:

"Until the 10 percent surcharge to federal income tax is removed, bills computed under the above tariff will be increased by _____ percent."

2. The districts and tariff schedule numbers and the percentages to be filled in on the special conditions authorized in the foregoing paragraph are:

<u>District</u>	<u>Schedule No.</u>	<u>Surcharge</u>
Bakersfield	BK-1, BK-2R, CR-1, CR-2R	3.50%
Bear Gulch	BG-1	2.24
Broadmoor	BD-1	2.33
Chico	CH-1, CH-2	2.87
East Los Angeles	EL-1	2.85
Hermosa-Redondo	HR-1	2.00
Marysville	MR-1, MR-2R	3.16
Oroville	OR-1, OR-2R, OR-3M	3.28
Salinas	SA-1, SA-1LC	3.12
Visalia	VS-1, VS-2R	2.52

3. The tariff filings authorized herein shall comply with General Order No. 96-A. The effective date of each revised schedule shall be four days after the date of filing. The revised schedule shall apply only to service rendered on and after the effective date thereof.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of OCTOBER, 1968.

William Symons Jr.
President

John E. [unclear]

Director

J. P. Monrosey
Commissioners

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WILLIAM M. BENNETT, Commissioner, Dissenting Opinion

I dissent to the treatment by the majority of the surtax charge upon utility income. Today's order is contrary to the intention of the Congress in enacting The Revenue and Expenditure Control Act of 1968. The nation was apprised of a financial crisis by business and government leaders not too long ago. The nation was told that unless some depressant upon individual and corporate profits came about that the country would further aggravate its fiscal crisis.

As a deterrent to excessive profits and in theory further inflation there was passed the 10% surtax charge which was intended to apply to individuals and to corporations alike. It was not intended that public utilities particularly should pass on to customers the surtax. Note is taken of the language of Secretary of the Treasury Fowler wherein he stated:

"The President's appeal for wage and price restraint applies, of course, to public utilities as well as to other sectors of the economy. Public utilities have had a commendable record of price stability in recent years -- a tribute to the progressiveness of their management and skills of their labor force, and the concern of their regulatory commissions. I am confident that both the utilities and the members of State regulatory commissions will consider the critical necessity of restraint in price decisions to help preserve and extend that fine record, and thus, respond to the President's appeal. I urge the utilities and the regulatory commissions to consider the special objectives of the tax increase and its temporary character in examining rate proposals based on these higher taxes. The purpose of this temporary tax rise is to curb price increases by moderating the growth of purchasing power of both individuals and corporations. Systematic attempts to shift

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"the tax increase to others by raising prices or wages would obviously thwart this objective."

The Federal Power Commission has publicly stated that it would not allow rate increases reflecting the tax sur charge unless there was a complete and adequate showing of utility need. None has been made here.


The Kansas Corporation Commission in a recent order noted that to rule that the utility can pass on to the consumer the utility's share of the tax would add to the inflationary spiral rather than combat it. And further it would require utility customers to bear not only the individual surtax associated with individual and personal income but would also shift to the individual rate payer the dubious task of now paying the public utility's surtax.

The majority opinion fails to discuss at all the purpose of the surtax and the obligation of public utilities in bearing it. Since the purpose of The Revenue and Expenditure Control Act of 1968 was to restore price stability it is plain to me that Congress meant not only individual income to be affected but more importantly corporate income as well. No exemption was made for public utilities. Today's order removes completely from the public utilities here involved and ultimately the majority of California public utilities the proper responsibility of carrying their fair share of the surtax. And it is interesting to recall that among the loudest voices urging the enactment of surtax upon the administration were representatives of the public utility industry of America.

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The Commission now is not only furnishing California public utilities an opportunity for a fair return but the Commission is bent upon guaranteeing against the slightest deviation below authorized return despite effects of the national economy, government policy, or whatever. And any knowledgeable reading of today's order and the financial condition of the utilities affected makes it perfectly plain that the surtax effect upon utility return here is almost negligible.

The citizen taxpayer is compelled to make a monetary sacrifice in the national interest. It is not a matter of choice -- it is a matter of law. The legislative history associated with the surtax discloses that such a sacrifice in the judgment of Congress was dictated by the national interest. Above and beyond the battle, however, immune from even the slightest penny impact and continuing to enjoy unlimited corporate prosperity sit the public utilities of California by today's order. I for one have no hesitancy in concluding that Congress and the national interest require the sacrifice not merely of the individual but of the corporate sector as well.


WILLIAM M. BENNETT
Commissioner

DATED: October 15, 1968
San Francisco, California